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SUMMARY RECORD OF THE 1245th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 19 July 1993, at 3 p.m.

Chairman: Mr. ANDO

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GE.93-17434 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of Egypt (CCPR/C/51/Add.7; HRI/CORE/1/Add.19) (continued)

1. The CHAIRMAN invited members of the Committee to put questions in addition to those raised under section I of the list of issues to be taken up in connection with the second periodic report of Egypt (CCPR/C/51/Add.7).

2. Mr. FRANCIS welcomed the Egyptian delegation and thanked it for its introductory remarks and replies to the queries raised by members of the Committee thus far.

3. Many questions had focused on the extent to which the provisions of the Covenant were incorporated in Egyptian legislation. In that connection, he sought confirmation that the Covenant had been published in the Official Gazette. He shared the concerns of previous speakers that the Covenant had not yet been accorded its rightful status under Egyptian law. While recognizing the importance of having provisions in the Constitution and Penal Code which covered the articles of the Covenant, he stressed that, in legal terms, that was not tantamount to according the Covenant legal autonomy by treating it as a specific instrument in Egyptian legislation. He wondered whether it was too late to give that instrument such autonomy without in any way prejudicing the provisions of the Constitution or other Egyptian legislation.

4. The efforts to disseminate information on the Covenant undertaken to date, as described in paragraph 85 of the core document (HRI/CORE/1/Add.19), fell short of the Committee's expectations. Since the statistics provided in the same document indicated that there was a very high rate of illiteracy in the country, he feared that, unless the Government launched a very active information campaign, much of the population would be unable to exercise the rights protected by the Covenant. Clearly, careful consideration would have to be given to the most appropriate means of disseminating the information on the Covenant that was required under those very special circumstances. He inquired what measures the Egyptian Government envisaged in that regard.

5. Referring to paragraph 93 of the second periodic report, he expressed concern with regard to the very long period of precautionary detention and its possible extension for successive periods pending the completion of the investigation. While he recognized that there might be special circumstances motivating such measures, he suggested that it might be possible for the accused to be charged sooner while investigations were conducted into the alleged offence.

6. Mr. NDIAYE welcomed the opportunity to establish a dialogue with the Egyptian delegation. He observed that Egypt had not adhered strictly to the guidelines regarding the form and contents of periodic reports (CCPR/C/20/Rev.1), with the result that the report before the Committee was

somewhat too broad in scope and thus at times difficult to understand. Moreover, while it contained many references to the different international human rights instruments in force, the issues of greatest interest to the Committee relating to the implementation of the Covenant had not been fully covered. He hoped that the delegation would provide a satisfactory explanation of the status of the Covenant under Egyptian law in due course.

7. He would have welcomed greater emphasis on factors affecting the implementation of the Covenant in Egypt, such as the threat from terrorist groups and the current economic crisis; clearly serious problems such as illiteracy and the acute housing shortage made it difficult for the Government to give human rights all the attention they deserved.

8. He inquired as to the exact scope of Islamic law. The report suggested that its application was limited to minor issues. He wondered whether it was applied exclusively to Muslims in connection with family law and the rights of individuals. If that was the case, how could the problems of the Baha'i community, which had been brought to the Committee's attention, be explained?

9. He inquired whether it was possible for a Muslim woman to marry a man of another religion in Egypt. In other Muslim countries the Shariah was more tolerant with regard to the marriage of Muslim men to non-Muslim women.

10. A number of points raised in the report required clarification. Referring to paragraph 62 (a), he inquired what exactly was meant by the phrase "disparaging or belittling any divinely-revealed religion". He was also puzzled by the statement to the effect that the duration of precautionary detention would be deducted from the total sentence. Would that make the total period of detention longer or shorter? Did it depend on the seriousness of the offence committed?

11. He expressed particular concern with regard to the extensive powers granted to the President of the Republic under the Egyptian Emergency Act and questioned their compatibility with the guarantees for the independence of the judiciary outlined in paragraph 161.

12. Moreover, according to paragraph 157 (a), the President was empowered to appoint two officers as additional members of the State Security Courts established under the state of emergency. He inquired as to the precise role of those officers.

13. He also sought clarification with regard to the statement in the same paragraph under (b) that the Higher State Security Courts were competent to try offences punishable by a criminal penalty, as well as other offences specified by the President. That might imply a violation of the principles of nulla poena sine lege and nullum crimen sine lege which were fundamental to any legal system. He also expressed concern regarding the need for the President's ratification of judgements handed down by the State Security Courts, as referred to under (e) and (f) of the same paragraph, and requested further information in that regard.

14. Mr. ZAHRAN (Egypt) welcomed the comments and questions of the members of the Committee, which reflected their great interest in the human rights situation in Egypt. Most of the queries concerned either the status of the Covenant vis-à-vis the Constitution and Egyptian legislation or the Egyptian Emergency Act.

15. With regard to the latter, he explained that the failure to notify the Secretary-General of the United Nations of the duration of the state of emergency in Egypt implied no bad faith on the part of the Egyptian Government. He pointed out that Egypt was a signatory of many other international human rights instruments for which it had to submit reports at different times. The Egyptian Government's non-compliance with the provisions of article 4 (3) had been a mere omission. He assured the Committee that the state of emergency had been duly proclaimed in Egypt and well publicized outside the country. Moreover, with the exception of the duration of detention, the provisions of the Emergency Act in no way violated the rights enshrined in the Covenant.

16. Mr. KHALIL (Egypt), providing additional clarifications regarding the status of the Covenant vis-à-vis the Constitution of Egypt, recalled that Egypt had acceded to the Covenant in 1967, prior to the drafting of its Constitution. The framers of the Constitution had therefore been bound to incorporate in it all the rights enshrined in the Covenant and other relevant international instruments. Furthermore, pursuant to article 2 of the Covenant, in the 14-year period between Egypt's signature and ratification of that instrument, every effort had been made to ensure that Egyptian legislation was brought fully in line with its provisions. Some of the new legislation adopted as a result related inter alia to general freedoms, the Constitutional Court, labour problems and non-discrimination against women, as well as arrest and imprisonment. He stressed that a violation of the Covenant was tantamount to a violation of the Constitution.

17. Since Egypt's accession to the Covenant, by virtue of article 151 of the Constitution, the Covenant had become the law of the land. It had special dual status; on the one hand, the rights protected by it were incorporated in the constitutional texts; but more importantly, it enjoyed equal status with national legislation, under which any new legislation adopted superseded that previously in force. Accordingly, any law passed following Egypt's ratification of the Covenant which was deemed incompatible with that instrument was declared unconstitutional.

18. One example concerned elections to the People's Assembly. The relevant legislation stipulated the use of lists of candidates established on the premise that parties must have a certain percentage of votes in order to be represented in the Assembly. That legislation had been contested on grounds of unconstitutionality, since it did not allow for independent candidates to stand for election. A judgement had been rendered by the Supreme Constitutional Court and new legislation drafted which provided special quotas for those candidates who were not members of major parties. However, due to a disparity between the number of independent candidates and those from official

parties, the Supreme Constitutional Court had ruled that the new legislation was still unconstitutional. Further legislation had had to be drafted allowing any person to nominate himself for election, irrespective of whether he was a member of a political party.

19. That was ample proof of the special constitutional status enjoyed by the Covenant in Egypt as far as the Constitutional Court was concerned. The same applied to all other types of courts in the country. For instance, the administrative courts which dealt with ordinary crimes based their judgements relating to freedom of expression and recognition of political parties on the rights enshrined in the Covenant and annulled administrative orders previously in force which contradicted the provisions for that instrument. Likewise, due account had been taken of the rights protected by the Covenant in criminal procedure and the Egyptian Penal Code. Furthermore, litigation laws in Egypt were fully in line with the provisions of the Covenant. It was also worthwhile mentioning that under the Constitution of Egypt crimes against personal freedoms were not subject to any statute of limitations - an aspect which was not covered by the Covenant.

20. In that connection, he referred to a judgement rendered by the Supreme Constitutional Court concerning the lifting of disciplinary sanctions imposed on an officer in the armed forces, which represented a significant development in the human rights situation in Egypt. The judgement highlighted the fact that the relevant legislation should not violate rights accepted in democratic States.

21. Implementation of the Shariah in the national courts concerned litigation on personal and family status laws. Its basis was a decree dating back to 1856, which provided that no one was to be prevented from observing traditional religious practices or compelled to abandon his religious beliefs. Any violation of freedom of religion was thus a crime under the Penal Code.

22. Amendments to the Emergency Act had brought that legislation into line with the provisions of the Covenant. They provided that, where crimes governed by the Act were concerned, the Department of Public Prosecutions would take over the powers of the investigating magistrates. Its members enjoyed full juridical immunity and could not be dismissed, and the body was headed by the Attorney-General, who enjoyed the same immunities. The legislature could thus rest assured that adequate safeguards existed.

23. The Higher State Security Courts were ordinary courts composed of judges from the highest echelons of the legal system, chaired by the most senior judge, with two other judges for every circuit. Although a provision existed for the President of the Republic to appoint two officers to sit with the panel of judges, he had not thus far availed himself of that power. Ratification of the judgements of the Higher State Security Courts took place in two stages: a review of the judgement, followed by ratification proper. Senior lawyers prepared a reasoned written memorandum on every ruling submitted. No interference in the course of justice was involved, since the only recourse open to the President of the Republic, should he take issue with the judgement, was to refer the case back to the same court for a retrial.

After that retrial, the verdict would become final and no further reconsideration of the case was possible. Where appointed, the two officers would not constitute a majority in the court, whose membership also comprised three specialized judges. The Supreme Constitutional Court had ruled that the ratification procedures were one of the procedural stages that must be completed if the judgement was to become final.

24. The powers of the President of the Republic were exhaustively enumerated in legislation, and he was not free to increase or extend them. The legislation provided for important safeguards, including the right of any person detained as a threat to State security, or of his family, to seek redress before the Higher State Security Court. Detention was also subject to the usual legal safeguards, such as the right of immediate written notification and the right to contact a lawyer. Detainees were held under precautionary detention, and were detained in premises subject to judicial supervision.

25. The judicial authority was independent and impartial. Judges enjoyed the usual immunities and were fully independent of the Executive. Their Council was chaired by the President of the Court of Cassation, the highest court in the land. With that structure and those safeguards and immunities, the judiciary was able to perform its duties impartially and independently.

26. No special courts existed in Egypt. Questions had been asked regarding the Revolutionary Court. That Court had been set up in 1967 to address one particular case. No similar courts had been established since that date.

27. The military courts constituted a permanent and independent judicial system, competent to investigate crimes committed by military personnel as defined by general law. They had no competence to consider cases in which civilians were involved, except where civilians had committed crimes under ordinary law against military personnel, facilities or property. The military courts were made up of three military judges with the highest academic qualifications, trained in the National Centre for the Judiciary. Military laws applied the provisions of the general law, except in the case of some special procedures that did not prejudice basic safeguards concerning the right of defence, the presence of legal counsel, questioning of the defendant, witnesses and evidence. However, because of their special nature, military courts did not look into questions of compensation. Their rulings were subject to ratification, a process that often worked to the advantage of the defendant, since it was at that stage that petitions and complaints seeking redress were heard. A retrial could be ordered where there had been a procedural defect or where safeguards had not been respected. The ratifying authority could commute, but not increase, the sentence. Following ratification, the judgement could be the subject of a petition for review.

28. On the dissemination of information regarding the Covenant, all United Nations activities in the field of human rights were covered by the Egyptian daily newspapers and other media. A study was under way on means of incorporating the teaching of human rights in the basic educational curriculum, in line with the methodology proposed by the United Nations Educational, Scientific and Cultural Organization (UNESCO).

29. Lastly, with regard to the legislative amendment to combat crimes of terrorism, article 86 of the Penal Code provided for the punishment of persons establishing associations whose objective was to violate the personal and other rights and freedoms of citizens. Under that amendment and the Emergency Act, some cases of terrorism had been referred to the military courts, which, as he had already stressed, were not special courts. Appeals had been lodged against those judgements, and the Administrative Tribunal had been informed of the possibility of annulling the referral. The Constitutional Court, requested by the State to give its interpretation of the extent to which the provisions of the Emergency Act applied to referral decisions, had confirmed that a referral could take place. The total commitment of the State to respect the supremacy of the law and accept the judgements of the judiciary, even in the current exceptional circumstances, was thus reaffirmed.

30. Mrs. HIGGINS asked for clarification regarding what seemed to be a disturbingly close relationship between the President and the judicial process. Was it appropriate that the President should refer cases to the courts, that he should have a power (albeit not exercised) of appointment, and that ratification should be a presidential competence? It appeared that appeals were addressed to the Military Appeals Tribunal, of which the President was also the head. Pardon was also in the hands of the President.

31. Mr. KHALIL (Egypt) reiterated the safeguards concerning the use of those powers by the President. Regarding the ratification procedure, the President did not chair any court, nor did he have authority to interfere in the workings of any court. The granting of a pardon was a presidential prerogative in countries throughout the world.

32. The CHAIRMAN drew attention to sections II and III of the list of issues, which read:

> "II. Right to life, treatment of prisoners and other detainees and liberty and security of the person (arts. 6, 7, 9 and 10)
>
> (a) How many death penalties, and for what crimes, have been imposed and carried out since the consideration of the initial report?
>
> (b) Is any revision of the law, with a view to curtailing the number of offences currently punishable by the death penalty, being contemplated? (See p. 48 of Annex II of the report.)
>
> (c) What are the rules and regulations governing the use of weapons by the police and security forces? Have there been any violations of these rules and regulations and, if so, what measures have been taken against those found guilty and to prevent the recurrence of such acts?

(d) What investigations have been made into allegations of torture, inhuman or degrading treatment or punishment of persons deprived of their liberty, and have charges been brought against the perpetrators of such acts? What measures have been taken to prevent the recurrence of such acts?

(e) What concrete measures have been taken by the authorities to ensure the observance of article 7 of the Covenant? Can confessions or testimony obtained under duress be used in court proceedings?

(f) Please provide information on arrangements for the supervision of places of detention and on procedures for receiving and investigating complaints about conditions and treatment in such places.

(g) Please provide information about the legal prerequisites and the maximum time-limits for remand in custody and pre-trial detention and on the implementation in practice of these rules.

(h) How quickly after arrest is a person's family informed and how quickly after arrest can a person contact a lawyer?

(i) Please provide information on provisions relating to incommunicado detention.

III. Right to a fair trial (art. 14)

(a) Please provide further information on the jurisdiction, composition, activities of the State Security Courts and their place in the judiciary and clarify their relationship with ordinary courts. Please clarify which offences under ordinary law may be placed before them by the President of the Republic (see para. 157 of the report).

(b) Please provide information on the legal and administrative provisions governing tenure, dismissal and disciplining of members of the judiciary, in particular of members of the security courts.

(c) Please provide information concerning the organization and functioning of the legal profession in Egypt.

(d) Is there a legal aid or advisory scheme and, if so, how does it operate?"

33. Mr. KHALIL (Egypt) said that numerous guarantees existed to ensure that the death sentence was passed only when absolutely necessary. First, only the most serious crimes - such as premeditated murder, murder involving abduction or rape, and drug trafficking - were punishable by death. Under a 1972 amendment to the Penal Code, terrorism had been added to the list of

capital offences. Application of the death penalty was never mandatory, since the court was empowered to reduce the penalty to one of hard labour for life or imprisonment for life. In addition, the death penalty could be imposed only by unanimous decision of the judges reviewing the case. If there was unanimity to impose the death penalty, the opinion of the Mufti must then be sought. After the judgement had been pronounced, the case was automatically referred to the Court of Appeal, even if the defendant did not contest the sentence, as a binding procedure for review. If the Court of Appeal approved the sentence, the file was then referred to the President of the Republic, who might then exercise his right of pardon.

34. The elaborate procedure he had described guaranteed that convictions on capital charges were not flawed. Defendants were properly represented and in any case capital sentences could not be passed on persons under the age of 18.

35. The use of weapons by the police and security forces was subject to detailed regulations: a clear oral warning must be given, warning shots must be fired and only then, if the offender endeavoured to escape, could he be fired at directly. Any breaches of the regulations by the police were investigated and the offenders disciplined.

36. With regard to allegations of torture, inhuman or degrading treatment, the use of torture had been renounced in Egypt since the end of the nineteenth century and its practice was punishable under Egyptian law. The first Penal Code, promulgated in Egypt in 1863, had been the subject of numerous amendments culminating in the Criminal Procedures and Prisons Act which categorically prohibited any ill-treatment or torture of prisoners and imposed penalties commensurate with the offence. By the same token, confessions extracted by torture were not accepted as evidence by the courts, and offences involving the infliction of torture were not subject to the statute of limitations. Allegations of torture were investigated by the Department of Public Prosecutions and suspected offenders were referred for trial. Many such cases had been brought before the courts, resulting in some acquittals and some convictions. Cases were subsequently reviewed by independent judicial machinery.

37. Guarantees under article 7 of the Covenant were fully implemented. No person could be subjected to medical or scientific experiments without his consent.

38. Places of detention were subject to inspection by the judicial authorities, which ensured that the prescribed conditions were complied with and complaints procedures observed.

39. Specific time-limits were laid down for remand in custody and pre-trial detention. Police were empowered to detain suspects for 24 hours, after which they had to be brought before the competent public prosecutor's office, which might in turn authorize a further four days' detention. A judge of a court of first instance might extend the period of detention for up to 45 days and a panel of three judges for up to six months, but only in the case of offences carrying specified minimum terms of imprisonment. Those periods of detention could be further extended by the Department of Public Prosecutions in accordance with the provisions of the Public Order Act. Defence counsel had

to be present, however, during any such consideration of a prisoner's further detention. Suspects had to be notified of the reasons for their continued detention and given the opportunity of contacting members of their families and their lawyers.

40. Solitary confinement was only imposed as a disciplinary punishment in prisons.

41. Among the issues which had been raised in connection with the right to a fair trial under article 14 of the Covenant, the composition of the State Security Courts and the appointment or dismissal of judges had already been dealt with. Judges were, moreover, completely independent of the administration; the legal profession enjoyed a high status in Egypt and had its own code of ethics. Administration of the legal profession was vested in bar associations, which organized the promotion of lawyers to levels affording access to the different courts.

42. The rules on legal aid provided that accused persons must be assisted in court by counsel. If the defendant could not afford a defence lawyer, counsel would be appointed by the court and remunerated from public funds. Financial assistance was also provided for the conduct of civil law cases.

43. Mr. SADI said that the Committee was well aware of the difficult conditions currently obtaining in Egypt. He would, however, like to make one point on the subject of capital punishment. Article 6.2 of the Covenant did not of course prohibit capital punishment, but it did restrict its implementation to the most serious categories of crime. It was accordingly a matter of some concern that there appeared to be a trend, accentuated during recent weeks, for the number of executions to rise in Egypt. He would be grateful for a comment from the Egyptian delegation on that matter.

44. Mr. HERNDL said that his remarks would be addressed mainly to issues under articles 6, 7 and 8 of the Covenant. It could be seen from annex II to Egypt's second periodic report that a fairly large number of offences carried the death penalty. Was it not a fact that the list had been greatly increased by the provisions of Act No. 97 of 1992?

45. Some information had been given on the regulations governing the use of firearms by the police, but he would also like to know in which categories of cases the police were empowered to make use of weapons, what was the procedure for reporting their use and what authority was responsible for reviewing such reports. Were any statistics available on instances of disciplinary action taken against police officers for improper use of force?

46. It was stated on page 49 of the second periodic report that all death sentences were submitted to the Court of Cassation for verification. Was the Court empowered to re-examine the facts of the case and were there any fundamental differences between the relevant provisions of the Code of Criminal Procedure and those of Act No. 57 of 1959? He understood that a large number of death sentences had recently been imposed by military courts. Were those sentences also subject to appeal to the Court of Cassation? If that were not the case, there might be incompatibility with the provisions of the Covenant.

47. Miss CHANET said that she would refer to matters covered by articles 6, 7, 8, 9 and 14 of the Covenant. A number of reports from non-governmental organizations (NGOs) had alleged that torture and imprisonment were regularly used by the security forces, involving on occasion electric shock treatment, suspension by the wrists, etc. What comment had the Government to make on those allegations? It was after all responsible for law and order and could not be unaware of several recent cases in which the courts had refused to accept the validity of confessions obtained under duress.

48. Another matter of concern was the exercise by the Ministry of the Interior of its powers of arrest and imprisonment. Emergency and anti-terrorist legislation permitted detention without trial for up to six months and also gave the Minister of the Interior discretion to establish any number of additional detention centres. Apparently no exhaustive list of detention centres was currently available. The delegation had stated that solitary confinement was used solely as a disciplinary measure within prison establishments. There had, nevertheless, been reports of frequent cases of solitary confinement, including in particular, solitary confinement at a detention centre about 25 kilometres from Alexandria.

49. Articles 126 and 129 of the Penal Code dealt with disciplinary action against police or prison officers convicted of offences against prisoners. The extraordinary light sentences meted out, on occasion merely a fine, were disquieting and tantamount in fact to impunity. Cruel, inhuman or degrading treatment or punishment was prohibited under article 7 of the Covenant and under the Egyptian Constitution. Nevertheless, reports had referred to severe overcrowding and deliberately harsh physical conditions in prisons, which were under the direct control of the Ministry of the Interior. There had also been allegations of prisoners being transferred from prisons to police centres, where they were systematically tortured before being returned to prison. There appeared to be little doubt that prison conditions did not comply with the relevant United Nations standards.

50. Mr. DIMITRIJEVIC observed that the scourge of terrorism, which affected countries of all descriptions, irrespective of their degree of socio-economic development, and with which the Committee had become more than a little familiar during the course of its work, certainly called for an energetic response on the part of Governments. It could be and indeed was argued that harsh sentences did not serve as a deterrent, particularly where terrorism at its most fanatical was concerned; what was certain was that, whatever form it took, terrorism not only posed a highly dangerous threat to the fabric of society, it provoked responses on the part of States and Governments that could sometimes themselves jeopardize the security of innocent individuals. The mere fact of being suspected of involvement in terrorism could have dire consequences in the shape of arbitrary arrest and detention, often leading to summary trial and to sentences that could not be appealed against. In that connection, he, too, wished to know what offences were punishable by death under the Anti-Terrorism Act of 1992; and how "terrorism", as an aggravating circumstance, was defined for the purposes of the law.

51. Although the Committee's list of issues contained no questions on article 15 of the Covenant, the provisions of that article relating to the criminalization of certain acts were of considerable relevance. Uncertainty

as to whether a given act or omission did or did not constitute a criminal, and perhaps even capital, offence could create a profound sense of insecurity in society, and thereby lead to the state of social destabilization and chaos that was both the goal and the breeding-ground of terrorism.

52. The punitive measures taken in Egypt with regard to behaviour vaguely described as contrary to the interests and values of society, under the provisions of the Morals Protection Act, 1980, were also worrisome, especially the authority given to the so-called "socialist prosecutor" to order the detention of suspected offenders under the Act for up to 60 days, and to the special court of morals to order further incarceration at a "secure" place (no doubt a prison) for a further period of as much as five years. He would welcome additional details concerning that procedure, which could lead to a nightmarish situation in which preventive detention was imposed solely on the basis of suspicion.

53. Mr. AGUILAR URBINA joined in voicing especial concern with regard to the nature and number of capital offences, notably under the Anti-Terrorism Act. Notwithstanding its specific question, the Committee had yet to learn how many death penalties, and for what crimes, had been imposed and carried out since the consideration of Egypt's initial report.

54. Serious allegations, some of them only indirectly refuted by the authorities, had been submitted to the Committee concerning violations of article 6 of the Covenant and of related articles; he was particularly anxious at reports of arbitrary detention resulting in death, sometimes - it appeared from forensic evidence - as a result of torture. Citing just one documented case, he asked how it was possible for a person held in detention to have died in his cell of what had been officially described as "extreme fatigue". His concern about such incidents was compounded by his dismay at what seemed to be an absence of assiduous investigation, at the seeming reluctance of the authorities to bring those responsible to justice, and at the leniency, sometimes bordering on complaisance, of the sentences handed down.

55. Lastly, he requested further information concerning the functioning of the courts, and more particularly concerning the relationship between presidential prerogatives, the rulings of the Constitutional Court and the competence of the military courts which, even though they might be in permanent session, were nevertheless exceptional instances.

56. Mr. FODOR called on the Egyptian delegation to provide a comprehensive list of the crimes punishable by death. He further asked for detailed information concerning the arraignment and punishment of persons accused and found guilty of acts of torture during the past three years.

57. Comparing paragraphs 46, 56 and 58 of the report, he inquired about the relationship in law between imprisonment, imprisonment with hard labour and hard labour, asking whether the latter was a penalty sui generis, what were the conditions for its imposition, whether it was medically supervised and, if so, how, and what sanctions were imposed for refusal to serve such a sentence.

58. The statement (para. 76) that anyone knowingly working or residing in a house of prostitution was liable to up to one year's imprisonment struck him as being at variance with article 12 (1) of the Covenant, concerning freedom of residence.

59. Concerning paragraph 88 of the report, on prison complaints procedures, he asked whether any mechanism existed to monitor respect by prison authorities for prisoners' rights in that connection. He also inquired whether the declared rights of members of the Department of Public Prosecutions and presidents and vice-presidents of courts of first instance or appeal to visit prisons and inspect prison registers (para. 89) carried any measure of obligation or whether their exercise was purely optional.

60. Concerning paragraphs 90 and 156 (b), he asked what was the distinction between ordinary and "precautionary" detention.

61. Concerning the measures and penalties applicable to juveniles, paragraph 143 mentioned admission to "specialized" hospitals. What kind of establishments were those, and how could hospitalization be described as a penalty?

62. Paragraph 146 stated that financial penalties imposed on juveniles could not be enforced by means of physical coercion. Did that mean that mental coercion was permissible? Coercion of any kind was surely a dubious procedure when the juveniles in question were probably impecunious.

63. He had been surprised by the indications in paragraph 109 that judgements in absentia were reviewed by the courts which delivered them, and in paragraph 111 that appeals could be heard by courts of first instance. Submitting that, in any case, judgements in absentia prevented the application of the guarantees set forth in article 14 of the Covenant, he said he found it strange that - according to paragraph 113 of the report - such judgements were declared null and void if the accused appeared or was arrested.

64. Noting from paragraph 117 that criminal proceedings relating to a final judgement could not be reheard except on the basis of an appeal, he inquired how, if appeal was possible, the judgement in question could be described as "final".

65. Mr. LALLAH said that he associated himself with the questions asked by other members of the Committee, but would for his part concentrate on issues affecting the application of article 9 of the Covenant, concerning the right to liberty and security of person. He had attentively studied the comparative table on pages 54-57 of the Egyptian report, which related the provisions of that article to corresponding articles of the Egyptian Constitution and other legislation.

66. His first question concerned the exact definition of "precautionary detention". Did that mean detention pending investigation? Was release on bail possible? He found that the establishment of a correlation between the length of possible punishment in the event of being found guilty and the length of so-called precautionary detention made a mockery of the presumption of innocence. The mention of varying lengths of possible detention in the

table on page 56 of the report was followed by the statement that detention "may be subsequently extended by the competent court"; the Committee would welcome an indication of any limit to such extension.

67. Submitting that the provisions of article 9 of the Covenant were not to be derogated from even in periods of emergency, he said he understood that under the State Security Courts Act, 1980, the Department of Public Prosecutions might order the preventive detention of a suspect for a period of 60 days, which could be extended for as much as six months. That, in his view, was at variance with article 201 of the Egyptian Code of Criminal Procedure. Those and other theoretical provisions referred to in the report were matters of considerable concern to him - but beyond that, there was the more disturbing practical, human dimension. He asked for precise information as to how many people were actually detained under the laws mentioned, adding that the unfortunate impression he had gained from his study of the matter was that article 9 of the Covenant might not be implemented at all in the Egyptian legal system.

68. Mrs. HIGGINS said that the previous speaker had voiced the majority of her own concerns with regard to the application of article 9 of the Covenant. She would, therefore, merely stress that the Committee found it difficult from the information provided to perceive the distinction between preventive, or precautionary, and pre-trial detention; nor was it able to establish how in law or in fact the provisions of article 9 were complied with.

69. In the oral statement by the Egyptian delegation, mention had been made of detainees' right of access to their families. She wondered how that right was implemented, especially when, as she understood it, the places of detention, selected by the Ministry of the Interior, might well be police barracks or security services premises.

70. The reply to the Committee's question on incommunicado detention had indicated that such detention was not a court-imposed sanction, but rather a disciplinary measure imposed in the context of imprisonment. She asked what was the substantive legal basis for such a measure and how its application was supervised, medically and otherwise.

71. Mr. WENNERGREN noted the delegation's statement that torture had long been considered as a crime in Egypt, and acknowledged that there were few if any countries where torture did not occur, at least sporadically. Reports received by the Committee indicated, however, that torture was practised on a systematic basis in Egypt, major sufferers being people detained on suspicion of Islamic extremist activities or involvement in terrorism. That was an entirely different and disturbing state of affairs, concerning which the Committee would welcome more detailed information. As to the causes, they might include ignorance on the part of police and security personnel, bad faith on the part of certain authorities and even what was deemed to be necessity; for his part, however, he was most gravely concerned at the persistent pretence, in the face of all the evidence, that torture simply did not exist in Egypt.

72. Another matter of particular concern to him was the fact, substantiated by NGOs, that the rights of detainees, whether under international instruments to which Egypt was a party or under domestic law, were simply not being complied with. The particular fact that the Ministry of the Interior was empowered to order a second arrest immediately after a detainee's release symbolized the many obscurities below the brilliant surface of a presentation of the situation according to which the problems were non-existent, minimal or had been exaggerated. He appealed to the members of the Egyptian delegation to strengthen the dialogue with the Committee by indicating more clearly how the authorities intended to face up to current realities, so that the doubts that enveloped the question of compliance with the Covenant and, indeed, with the Egyptian Constitution, might be convincingly dispelled.

The meeting rose at 6.05 p.m.